

0/26/11 Page 1 of 10
11-CV-6677



DEFENDANTS

Whirlpool Corporation and Daewoo Electronics

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

Attorneys (If Known)

Joseph A. Malley, III, Esquire, 15 East Second Street
Media, Pennsylvania 19063 (610) 566-8010

III. CITIZENSHIP OF PRINCIPAL PARTIES(Place an "X" in One Box for Plaintiff
(For Diversity Cases Only) and One Box for Defendant)

- | | PTP | DEF | | PTP | DEF |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input checked="" type="checkbox"/> 6 |

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

☐ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Judge from Magistrate Judgment

Brief description of cause:
Products liability case of defective microwave oven

☐ CHECK IF THIS IS A CLASS ACTION, DEMAND \$ in excess of 75,000.00 CHECK YES only if demanded in complaint:
UNDER F.R.C.P. 23 JURY DEMAND: ☒ Yes ☐ No

(See instructions):

JUDGE

DOCKET NUMBER

~~SIGNATURE OF ATTORNEY OF RECORD~~

OCT 26 2011

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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UNITED STATES DISTRICT COURT

11 6697

FOR THE EASTERN DISTRICT OF PENNSYLVANIA
assignment to appropriate calendar.

HB

DISCLOSURE FORM to be used by counsel to indicate the category of the case for the purpose of

Address of Plaintiff: 228 Bartlett Avenue, Sharon Hill, PA 19079

Address of Defendant: 2000 N. M-63, Benton Harbor, MI 49022

Place of Accident, Incident or Transaction: 228 Bartlett Avenue, Sharon Hill, PA 19079

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))Yes ☐No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☒ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

Attorney I.D.#

OCT 26 2011

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10-25-2011

Joseph A. Malley, III, Esq.

Attorney-at-Law

27866

Attorney I.D.#

HB

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Simon Sop and Marie Lewis-Sop

v.

Whirlpool Corporation and
Daewoo Electronics

CIVIL ACTION

11 6697

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>10-25-11</u>	<u>Joseph A. Malley, III</u>	<u>Plaintiffs</u>
Date	Attorney-at-law	Attorney for
<u>610-566-8010</u>	<u>610-566-9362</u>	<u>malleylaw@aol.com</u>
Telephone	FAX Number	E-Mail Address

HB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SIMON SOP and MARIE LEWIS SOP

Civil Action No.:

11 6697

v.

WHIRLPOOL CORPORATION and
DAEWOO ELECTRONICS

FILED

OCT 26 2011

MICHAEL J. HARTY, Clerk
By _____ Dep. Clerk

COMPLAINT

Plaintiffs, Simon Sop and Marie Lewis-Sop, by and through their attorney, Joseph
A. Malley, III, Esquire, respectfully represent as follows:

Parties

1. Plaintiffs, Simon Sop and Marie Lewis Sop are adult individuals who currently
reside at 228 Bartlett Avenue, Sharon Hill, Pennsylvania 19079.

2. Defendant, Whirlpool Corporation ("Whirlpool") is a company incorporated
formed in the State of Delaware, and designs, manufactures, distributes and sells the
Magic Chef brand of household appliances with a principal business address at 2000 N.
M-63, Benton Harbor, MI 49022.

3. Defendant, Daewoo Electronics ("Daewoo") is a foreign corporation based in
Seoul, South Korea, engaged in the manufacture of home electronics that are sold around
the world, among them Magic Chef microwave ovens on behalf of defendant, Whirlpool.
This company is represented in the United States of America by Littleton, Joyce, Ughetta
and Park, 39 Broadway, 34th Floor, New York, NY 10006.

Jurisdiction

4. Jurisdiction in this case is based on diversity of citizenship of the parties and the amount in controversy. Plaintiffs are adult individuals currently residing in the Commonwealth of Pennsylvania. Defendant, Whirlpool is a corporation formed under the laws of the State of Delaware, while Defendant, Daewoo, is a foreign corporation based in Seoul, South Korea. The amount in controversy exceeds the sum of Seventy Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

Background

5. On or about October 30, 2009, a fire occurred in the home of Simon Sop and Marie Lewis-Sop located at 228 Bartlett Avenue, Sharon Hill, Pennsylvania 19079.

6. The fire has been determined to have originated from a wall-mounted Magic Chef Microwave Oven located in Plaintiffs' kitchen.

7. The fire was determined to have been caused by an electrical malfunction within the control compartment of the subject microwave oven.

8. The subject wall-mounted Magic Chef Microwave Oven was manufactured by defendant, Daewoo, for defendant, Whirlpool.

9. Any identification plates and labels were destroyed by the fire damage to the unit.

10. As a result of the aforementioned fire, plaintiffs, the insured, filed an insurance claim with the Philadelphia Contributionship Insurance Company (PCIC) for the property damage caused by the fire.

11. As a result of this claim, plaintiffs sustained damages in an amount in excess of \$206,000.00 and payments for the repair and restoration of their home, repair and replacement of personal property, and alternative living expenses.

12. The amounts sustained in damages was substantially greater than the amount of coverage afforded by the PCIC, thus forcing the plaintiffs to deplete their entire life savings and borrow considerable amounts of money in order to restore their home to its condition prior to the fire as aforesaid.

COUNT I
Negligence

13. Plaintiffs repeat the allegations set forth above in paragraphs 1 to 12, as thought set for the herein at length.

14. Defendant, Whirlpool, is now and at all times mentioned in this complaint, in the business of designing, manufacturing, assembling, marketing and selling the Magic Chef brand of microwave ovens.

15. Defendant, Daewoo, is now and at all time mentioned in the compliant in the business of manufacturing and assembling the Magic Chef brand of microwave ovens.

16. On October 30, 2009 a fire occurred a the home of the plaintiffs.

17. The fire was found to have originated from the wall-mounted Magic Chef microwave oven that is the subject of this action.

18. At all times mention in this complaint, defendant Whirlpool, so negligently and carelessly designed, manufactured, inspected, marketed and sole the said wall-mounted Magic Chef microwave oven that it was dangerous and unsafe for its intended use.

19. At all times mention in this complaint, defendant Daewoo, so negligently and carelessly manufactured and assembled the said wall-mounted Magic Chef microwave oven that is was dangerous and unsafe for its intended use.

20. Defendants, Whirlpool and Daewoo, as the designers, manufacturers, marketers and sellers of the subject product have a duty to produce a non-defective product.

21. This fire was caused by an electrical malfunction within the control panel of the subject microwave oven.

22. Plaintiff alleges that the incident subject to this complaint would not have occurred but for the negligence of the defendants.

23. Plaintiff cannot more specifically allege the acts of negligent design, manufacture, and inspection on the parts of Whirlpool and Daewoo, for the reason that facts in that regard are peculiarly within the knowledge of these defendants and their agents.

24. As a direct and proximate result of the defendants' negligence and carelessness as described above, plaintiffs were forced to have extensive repair and restoration work done to their home, repair and replace substantial personal property, and find an alternative place to live while the repairs and restoration were performed.

25. By reason of the foregoing, plaintiffs, Simon Sop and Marie Lewis-Sop, suffered damages in an amount in excess of the insurance coverage of \$206,000.00 together with interest and costs of this action to which they are entitled.

26. To date, plaintiffs have expended in excess of \$75,000.00 over and above the amount paid by their insurance carrier in order to restore their home to the condition to which it was prior to the fire as aforesaid.

WHEREFORE, plaintiffs, Simon Sop and Marie Lewis-Sop, respectfully demand judgment in their favor and against defendants, Whirlpool Corporation and Daewoo Electronics, in an amount in excess of \$75,000.00 together with interest and the costs of this action and any other relief this Court may deem just and proper.

COUNT II
Strict Liability

27. Plaintiff repeats the allegations set forth above in paragraphs 1 to 26 as though set forth herein at length.

28. At all times mentioned in this Complaint, the aforementioned wall-mounted Magic Chef Microwave oven was defective as to design and manufacture, in that an electrical malfunction occurred within the control compartment of the subject appliance.

29. At all times relevant to this Complaint the subject Magic Chef microwave oven and its component parts were defective as to design and manufacture at the time it left the manufacturing facility of Daewoo and distribution centers of Whirlpool.

30. Under the circumstances then and there existing, the subject Magic Chef microwave oven was unsafe for its intended use for the reason that the appliance had caused an unreasonably dangerous condition.

31. Plaintiffs were not aware of the dangerous condition of the appliance prior to or at the time of the use of the Magic Chef microwave oven.

32. On October 30, 2009, the Magic Chef microwave oven was used in a manner and for the purpose the defendants, Whirlpool and Daewoo, had intended and as a

proximate result of its use, the product caused plaintiffs to suffer the aforementioned damages.

33. As a direct and proximate result of the defect in the defendants' product and of their failure to give plaintiffs adequate warning of the danger of its use, a fire occurred at the home of the plaintiffs.

34. As a result of this fire, plaintiffs were forced to have extensive repair and restoration work done to their home, repair and replacement of substantial personal property, and find an alternative place to live while the repairs and restoration were performed.

35. By reason of the foregoing, plaintiffs suffered damages in an amount in excess of the \$206,000.00 paid by their insurance carrier together with interest and costs of this action to which they are entitled.

WHEREFORE, plaintiffs, Simone Sop and Marie Lewis-Sop, demand judgment in their favor and against defendants, Whirlpool Corporation and Daewoo Electronics, in an amount in excess of \$75,000.00 and any other relief the Court may deem just and proper.

COUNT III
Breach of Warranty

36. Plaintiff repeats the allegations set forth above in paragraphs 1 to 35, as though set forth herein at length.

37. Defendants, Whirlpool and Daewoo, expressly and/or impliedly warranted that the wall-mounted Magic Chef microwave oven was same and fit for the purpose intended when used under ordinary conditions and in an ordinary or foreseeable manner.

38. The fire of October 30, 2009 and the consequent damage sustained by plaintiffs was caused by defendants', Whirlpool and Daewoo, breach of such express and/or implied warranties.

39. As a direct and proximate result of the defendants' breach of expressed and/or implied warranty, a fire resulted and plaintiffs were forced to have extensive repair and restoration work done to their home, the repair and replacement of substantial personal property, and find an alternative place to live while the repair and restoration was performed.

40. By reason of the foregoing, plaintiffs suffered damages in the amount in excess of the insurance coverage of \$206,000.00 together with the interest and costs of this action to which they are entitled.

WHEREFORE, plaintiffs, Simon Sop and Marie-Lewis Sop, demand judgment in their favor against defendants, Whirlpool Corporation and Daewoo Electronics, in an amount in excess of \$75,000.00 and any other relief the Court may deem just and proper.

Demand for Trial by Jury

Pursuant to Fed.R.Civ. 38(b), the plaintiffs hereby demand a Trial by a jury.

Respectfully submitted:

The Law Office of Joseph A. Malley, P.C.



JOSEPH A. MALLEY, III, ESQUIRE
Attorney for Plaintiffs
15 East Second Street